

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

GWEN CATTONI,

Plaintiff,

v.

COMENITY LLC  
d/b/a COMENITY BANK,

Defendant.

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No. 5:15-cv-259

**PLAINTIFF'S COMPLAINT**

GWEN CATTONI (Plaintiff), through her attorneys, KROHN & MOSS, LTD., alleges the following against COMENITY LLC d/b/a COMENITY BANK (Defendant):

**INTRODUCTION**

1. Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).

**JURISDICTION AND VENUE**

2. Jurisdiction of this Court over Plaintiff's Complaint arises pursuant to 28 U.S.C. § 1331.

3. Because Defendant conducts business in the State of Texas, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

**PARTIES**

5. Plaintiff is a natural person who resides in San Antonio, Texas.

6. Plaintiff is informed, believes, and thereon alleges, that Defendant is a national company with a business office in Columbus, Ohio.

7. Defendant acted through its agents, employees, officers, members, directors, heirs,

successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**FACTUAL ALLEGATIONS**

8. In or around November 2014, Defendant began constantly and consistently placing telephone calls to plaintiff in an attempt to collect a debt an alleged debt owed on a Peeble's charge account.

9. Defendant places telephone calls to Plaintiff on Plaintiff's cellular telephone at 814-340-29XX.

10. Defendant places telephone calls from numbers including, but not limited to, 614-754-4057, 720-456-3684, 913-312-3217, 913-563-5511, 913-563-5512, and 913-312-3217.

11. Based upon the timing and frequency of Plaintiff's calls and per its prior business practices, each collection call placed by Defendant to Plaintiff was placed using an automatic telephone dialing system.

12. In or around November of 2014, Plaintiff called Defendant and spoke to Defendant's representative on at least two (2) occasions.

13. During the course of the telephone conversations in or around November 2014, Plaintiff informed Defendant's representatives that she had recently relocated, told Defendant's that Defendant's calls were excessive and harassing, and requested that Defendant cease placing calls to her cellular telephone.

14. Plaintiff revoked any consent, either explicitly or implicitly, to receive automated telephone calls from Defendant on his cellular telephone in or around November, 2014.

15. Despite Plaintiff's request to cease, Defendant placed at least one hundred and nine (109) collection calls to Plaintiff in an approximated three-week period between January 12, 2015 and February 3, 2015.

**COUNT I**  
**DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT**

16. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).
17. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

18. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
19. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);
20. All court costs, witness fees and other fees incurred; and
21. Any other relief that this Honorable Court deems appropriate.

Dated: April 8, 2015

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: /s/ Ryan Lee

Ryan Lee  
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Attorney for Plaintiff

**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF TEXAS)

Plaintiff, GWEN CATTONI, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, GWEN CATTONI, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Mar 5, 2015

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Date

Signature: Gwen Cattoni  
Gwen Cattoni (Mar 5, 2015)

Email: velvetncoke@aol.com

GWEN CATTONI